

REMARKS

The present Amendment and the following Remarks are submitted in response to the Office Communication mailed October 11, 2005. Applicant thanks the Examiner for entering the previous amendment to the claims, for reviewing the information disclosure statements and for indicating that claims 58, 59 and 64 are allowable.

In response to the Office communication, claims 60 and 62 are being amended and claims 61 and 63 are being canceled. Support for the amendment to claim 60 can be found in the specification at, for example page 26, lines 12-16. Support for the amendment to claim 62 can be found in the specification at, for example page 24, line 34 to page 25, line 12.

Further amendments to the claims include the addition of new claims 67-71. Applicant respectfully requests entry of the new claims, as they are drawn to subject matter related to the elected group. In particular, claims 67-71 recite processes of using the products recited in claims 58-60, 62 and 64-66.

Support for new claims 67-71 can be found in the specification at, for example, page page 51, line 5 to page 58, line 15.

In addition to the claim amendments, the title⁴ of the application is amended.

No new matter has been added. Claims 58-60, 62 and 64-71 will be pending upon entry of these amendments.

The Requests, Objections and Rejections raised by the Examiner in the Communication are addressed below.

IDS

The Examiner was unable to locate references AF-DI submitted in the priority application USSN 09/560,639 and thus was unable to review them. Applicant herewith is supplying the Examiner with copies of the missing references AF-DI.

Objection to the Drawings

The drawings were objected to due to inability to discern bands on gels of Figures 13-15. Applicant herewith is providing new copies of Figures 13-15. These replacement figures clearly show the bands, so Applicant respectfully requests withdrawal of the objection.

Objection to the Title

The title was objected to as being not descriptive. Applicant herein is amending the title to clearly indicate the invention recited in the claims presented herein. In view of these amendments, Applicant requests that this objection be withdrawn.

Rejections of the Claims Under 35 USC §112, Second Paragraph

Claims 60-63 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it appeared to be unclear how the limitations of the hybridization conditions had any bearing on the structure of the claimed polypeptide. Applicant respectfully traverses this rejection.

Applicant is amending claims 60 and 62 to clarify the language of the hybridization claims. Applicant is canceling claims 61 and 63, thus rendering the rejection in regard to these claims moot. In general, claims 60 and 62 recite a polypeptide which is encoded by a nucleic acid which hybridizes to SEQ ID NO:12, so it may be a variant of SEQ ID NO:13, but it has a further limitation that one portion of the variant is the same as a particular portion of SEQ ID NO:13. Amended claim 60 recites stringent hybridization conditions and amended claim 62 recites more stringent hybridization conditions. In view of these amendments and remarks, Applicant respectfully requests that this rejection be withdrawn.

Rejections of the Claims Under 35 USC §112, First Paragraph

Paragraph 6. Claims 65-66 are rejected under 35 USC §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner could not find support for specific embodiments, such as a polypeptide defined in claims 60, 62 and 64 further comprising a heterologous polypeptide or an Ig polypeptide, in the passages cited as support for these claims. The Examiner pointed to a passage at page 27 describing a fusion protein which comprises a polypeptide which includes the carboxy-terminus of the polypeptide in SEQ ID NO:13 or a fragment thereof to support this view. Applicants respectfully traverse the rejection.

Applicant first notes that the cited passage is an embodiment of a polypeptide encoded by a 103 nucleotide sequence operatively linked to a heterologous polypeptide, so the fusion proteins should not necessarily be limited to polypeptides comprising the carboxy terminus of SEQ ID NO:13. Applicant also notes that each embodiment in claims 60, 62 (before and after the present

amendment) and 64 comprises amino acid residue 158 of SEQ ID NO:13. Applicant respectfully calls the Examiner's attention to Figure 8, which displays SEQ ID NO:13 and the sequence listing, which includes SEQ ID NO:13. One skilled in the art at the time the application was filed would have been able to recognize that both of these documents show that the carboxy terminus of SEQ ID NO:13 is amino acid residue 158. Therefore, one skilled in the art would know that a fusion protein comprising the carboxy terminus of SEQ ID NO:13 comprises amino acid residue 158. As can be seen by these citations to the specification, one skilled in the art would recognize that at the time of filing the present application, Applicant had possession of the invention as presently claimed because the claims recite fusion polypeptides which comprise the carboxy terminal residue, amino acid 158, of SEQ ID NO:13, as disclosed in the specification as filed. In view of these amendments and remarks, Applicant respectfully requests withdrawal of this rejection.

Paragraph 7. The Examiner suggests that since the preliminary amendment includes claims 65-66 as drawn to embodiments allegedly not found in the priority specification, Applicant should consider this application as a continuation-in-part of the priority application. The Examiner further requests the filing of a supplemental oath or declaration referring to both the application and the amendment to establish this application with the claims provided in the preliminary amendment as a continuation-in-part of the priority application. As discussed above, Applicant believes that at the time of filing the specification, one of skill in the art would have recognized that the Applicant had possession of the invention recited in the claims. Therefore, it should not be necessary to consider the preliminary amendment as new matter warranting a designation of the present application as a continuation-in-part of the priority application. Withdrawal of this rejection is respectfully requested.

CONCLUSION

The foregoing amendments and remarks are being made to place the Application in condition for allowance. Applicant respectfully requests the timely allowance of the pending claims because, in view of these amendments and remarks, Applicant respectfully submits that the objections to the drawings and the title and the rejections of claims 60, 62 and 65-66 under 35 U.S.C. §112 are overcome. Applicants thus respectfully request review of claims 67-71 as a process using the products recited in the preceding claims. Early notice to this effect is solicited.

If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is encouraged to call the undersigned. If the Examiner

disapproves of Applicant's amendments and remarks in this response, Applicant requests a prompt mailing of a notice to that effect.

This paper is being filed timely, within the three-month period of time for the response. It is believed no extensions of time are required. In the event any extensions and additional fees are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

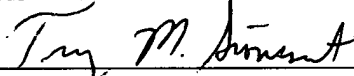
Entry of the remarks made herein is respectfully requested.

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Respectfully submitted,

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By



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